

DOCUMENT RESUME

03185 - [A2233344]

[Reimbursement of Travel Expenses]. B-188358. August 10, 1977. 4 pp.

Decision re: Jimmy N. Morris; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Energy Research and Development

Administration: San Francisco Operations Office, CA.

Authority: Back Pay Act (5 U.S.C. 5596). 5 U.S.C. 5337(a). 5

U.S.C. 5724. Atomic Energy Commission Manual 4170-056.

B-185923 (1976). B-185885 (1976). B-185932 (1976). B-184200

(1976). F.T.R. (PPMR 101-7) para. 1-7.6a.

G. N. Biaocchi, an Authorized Certifying Officer of the Finance Division of the San Francisco Operations Office of the Energy Research and Development Administration, requested a decision regarding the claim of an employee for reimbursement of travel expenses incurred while on duty. During a reduction-in-force action, the employee accepted a demotion and transfer from Oakland, California, to Los Angeles, California, to avoid separation. Although the employee was later reinstated in his original office, he is not entitled to per diem or travel expenses for commuting between Oakland and Los Angeles every weekend to be with his family nor to per diem at Los Angeles. However, he is entitled to the expenses of two transfers. (Author/SC)

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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-188358

DATE: August 10, 1977

MATTER OF: Jimmy Morris - Reimbursement of Travel
Expenses

DIGEST: In RIF, employee accepted demotion and transfer from Oakland to Los Angeles to avoid separation. His family remained near Oakland. Although RIF was later cancelled and employee was reinstated in Oakland, he is not entitled to per diem or travel expenses for commuting between Los Angeles and Oakland every weekend nor to per diem at Los Angeles. Claimed expenses resulted from personal decision to retain residence and there is no authority to pay under Back Pay Act. However, he is entitled to expenses of two transfers.

This action is in response to a request by Mr. G. N. Biaocchi, authorized certifying officer, Finance Division, Energy Research and Development Administration (ERDA), San Francisco Operations Office, concerning a claim by an ERDA employee, Mr. Jimmy N. Morris, for reimbursement of travel expenses incurred by Mr. Morris while he was on duty in Los Angeles, California.

The record shows that Mr. Morris was employed as a grade GG-13 at Oakland, California, on May 22, 1974, when he was given a notice of an impending reduction-in-force (RIF). The RIF involved the abolishment of all positions in his competitive level, and Mr. Morris was notified that unless it was possible to place him in another position on or before June 22, 1974, he would have to be separated from Atomic Energy Commission (AEC) employment. The impending separation date was later changed to July 6, 1974.

The record further shows that on June 28, 1974, Mr. Morris was sent a memorandum offering him a grade GG-11 position with the Security Division of the San Francisco office, but with a duty station in Los Angeles. Mr. Morris accepted the new position in a letter dated July 5, 1974, in which he stated that his acceptance was voluntary, but that he retained his right to appeal the RIF order. A notification of personnel

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action, effective July 6, 1974, was issued which changed Mr. Morris' position from EEO Coordinator, Personnel Division, SAN, GG-13, step 4, to Security Inspector, Security Division, SAN, Los Angeles, GG-11, with salary retention in accordance with 5 U.S.C. 5337(a).

On July 25, 1974, an authorization for change of official station was issued, changing Mr. Morris' duty station from Oakland to Los Angeles, and authorizing travel expenses for Mr. Morris and his family, as well as the movement and temporary storage of his household goods and personal effects. Expenditures were also authorized for temporary quarters and various other relocation expenses. Thereafter, on August 9, 1974, Mr. Morris and his family traveled to Los Angeles. During the week of August 18, 1974, he decided not to move his family to Los Angeles, and returned them to their residence in El Cerrito, California, near Oakland. After reporting for duty in Los Angeles on August 26, 1974, Mr. Morris commuted to El Cerrito every weekend until August 1, 1975.

Meanwhile, Mr. Morris had appealed the RIF order on July 19, 1974, which appeal was denied on December 30, 1974. Thereafter, Mr. Morris appealed that decision to the Administrator, Energy Research and Development Administration. On September 19, 1975, the Administrator sustained the appeal, ordered the RIF cancelled as to Mr. Morris, and directed SAN to place him in the next available grade GG-13 position for which he was qualified. He also directed SAN to review Mr. Morris' backpay situation to assure that he was left whole in accordance with AEC Manual 4170-056 (July, 1967).

Subsequently, effective October 12, 1975, Mr. Morris was assigned to a grade GG-13 position at Oakland. Effective February 15, 1976, he received a new GG-13 assignment and all actions which had occurred since June 23, 1974, were cancelled.

Mr. Morris then claimed reimbursement for expenses incurred by him while he was stationed in Los Angeles, in the amount of \$8,333.72. Specifically, the claim covers travel between Los Angeles and Oakland for the period from August 9, 1974, to August 1, 1975, and per diem. The claim was denied by ERDA on the grounds that Mr. Morris was not entitled to travel expenses

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under the Back Pay Act, 5 U.S.C. 5596 (1970) and since he had accepted a transfer, he was entitled only to relocation expenses.

Mr. Morris bases his claim on three contentions: (1) since the personnel action against him was determined to be unwarranted, he is entitled pursuant to the Back Pay Act, 5 U.S.C. 5596 (1970) and AEC Manual 4170-056 to the additional expenses he incurred as a result of such action, (2) since all adverse personnel actions were cancelled, his duty assignment in Los Angeles was temporary, entitling him to per diem and travel expenses, and (3) it cost the Government less in the long run to have his family remain in the San Francisco area.

Although the reduction-in-force action taken against Mr. Morris was cancelled by the Administrator of ERDA, it nevertheless remains true that the employee was transferred to a new duty station in connection with the RIF and that he accepted the transfer and worked at the new station for more than 1 year. After the RIF was cancelled, he was restored to his former grade level and transferred back to his original duty station.

The certifying officer advises that the relocation expenses involved in the transfer to Los Angeles and in the transfer back to Oakland are definitely allowable and will be paid when appropriate vouchers are submitted. However, Mr. Morris had not submitted the vouchers needed to process the reimbursement for the transfers because of his view that he should be reimbursed for all of his travel expenses incurred during his assignment to Los Angeles.

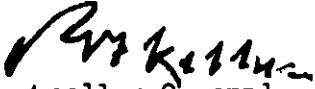
The Notification of Personnel Action reflects not only a position change but also a change in duty station. Further, Mr. Morris' Authorization for Change of Official Station authorized expenditures connected with a change in permanent official stations such as the movement of his family, household goods and personal effects, and expenses of selling his old residence. These expenses can only be authorized in the event of a transfer from one official duty station to another. 5 U.S.C. 5724 and 5724a (1970). Therefore, it was clearly the intent of ERDA to transfer Mr. Morris from Oakland to Los Angeles on a permanent basis.

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The rule is clear that no per diem or subsistence may be paid an employee at his or her official duty station in the absence of a statute specifying otherwise. See, B-185923, November 8, 1976; B-185885, November 2, 1976; and Federal Travel Regulations (FPMR 101-7), para. 1-7.6a (May 1973). The fact that Mr. Morris chose to keep his residence in El Cerrito was a personal decision and, in the absence of specific authority, Mr. Morris' travel expenses to such residence and per diem while he was in Los Angeles may not be paid by the Government. See, B-185932, May 27, 1976. The cancellation of the personnel action did not have the effect of changing the employee's duty in Los Angeles from permanent duty to temporary duty. Likewise, we find no basis under the Back Pay Act for allowing the various expenses allegedly incurred by Mr. Morris. The claimed expenses were not a necessary consequence of the erroneous action, but were incurred as a result of the employee's personal decision not to move his family to Los Angeles. See Ernest F. Gonzales, B-184200, April 13, 1976.

Finally, Mr. Morris' contention that his actions saved the Government money is irrelevant since he otherwise does not have any entitlement to reimbursement for the claimed travel expenses and per diem.

Accordingly, we conclude that there is no legal basis for approving Mr. Morris' claim. However, as indicated above, he may, upon submitting proper vouchers, be paid allowable relocation expenses incident to the two transfers.


Deputy Comptroller General
of the United States